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October 19, 2021

Hon. Analisa Torres  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Mario Badescu Skin Care, Inc. v. Sentinel Insurance Company Limited*  
Docket: USDC/SDNY, Case #20-cv-6699  
Our File: 20-117

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Hon. Judge Torres:

This firm represents Plaintiff Mario Badescu in the above-referenced action. We write to object to the October 13, 2021 letter in further support of Defendant Sentinel Insurance Company Limited (“Defendant” or “Sentinel”) motion to dismiss.

In its October 13, 2021 letter, Defendant seeks to “bring to the Court’s attention additional cases addressing the issues presented in Sentinel’s pending motion to dismiss”. Defendant claims that the cited cases rejected arguments that the COVID-19 pandemic triggered insurance coverage under policy provisions covering “direct physical loss” and “direct physical damage” to property. In so doing, Defendant is asking the Court to ignore the established rules of insurance contract interpretation on the ground that insurers, at least thus far, have “won” the majority of COVID-19-related insurance cases.<sup>1</sup> Accordingly, without reviewing the precise policy wording, pleadings and scientific data provided to any “other” court who have rendered decisions, including but not

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<sup>1</sup> There have been 57 cases denying motions to dismiss Complaints seeking coverage for economic loss as a result of suffering the effects of Covid-19 and motions for summary judgment by insurers and 10 cases granting motions for summary judgment in favor of an insured. See <https://cclt.law.upenn.edu/judicial-rulings/>. This further supports the fact that even though there appears to be more cases that favor the carrier’s position than the insured’s, there are still enough that would call into question the summary disposal of cases on the pleadings.

limited to the Record before the various Federal Circuit courts who have issued opinions, the mere “existence” of decisions issued by other courts should play no role in assessing the pleadings, policy and scientific data submitted in connection with the instant motion pending before Your Honor.

Respectfully submitted,

WEG AND MYERS, P.C.  
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